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TITLE 16. TRANSPORTATION

CHAPTER 1A. ADMINISTRATION, ORGANIZATION, RECORDS MANAGEMENT AND INFORMATION REQUESTS

N.J.S.A. 27:1A-5, 27:1A-6, and 52:14B-1 et seq., particularly 52:14B-3 and 4.

Expires on April 21, 2017

SUBCHAPTER 1. GENERAL INFORMATION

16:1A-1.1 Mission statement of the Department

The Department of Transportation's mission statement is: "Improving Lives by Improving Transportation."

16:1A-1.2 Organization of Department

(a) The Department of Transportation is organized as indicated in the Organizational Chart found at <http://www.state.nj.us/transportation/about/pdf/orgchart.pdf> and the functions and responsibilities of its officers are as follows:

1. The Commissioner of Transportation is the Chief Executive Officer of the Department and oversees all functions of the Department of Transportation.

i. A Director within Capital Program Management, having the necessary experience and a valid New Jersey Professional Engineer's license, is designated the State Transportation Engineer;

2. The Deputy Commissioner reports to the Commissioner with principal responsibilities in the following areas:

i. Capital Program Management--the Assistant Commissioner of Capital Program Management has principal responsibilities in the following areas:

- (1) Capital Program Support;
- (2) Project Management;
- (3) Highway and Traffic Design;
- (4) Construction Services and Materials;
- (5) State Transportation Engineer;
- (6) Right of Way and Access Management; and
- (7) Bridge Engineering and Infrastructure Management;

ii. Operations--the Assistant Commissioner of Operations has principal responsibilities in the following areas:

- (1) Operations North;
- (2) Operations Central;
- (3) Operations South; and
- (4) Operations;

iii. Capital Investment Planning and Grant Administration--the Assistant Commissioner of Capital Investment Planning and Grant Administration has principal responsibilities in the following areas:

- (1) Environmental Resources;
- (2) Local Aid and Economic Development;
- (3) Statewide Planning;
- (4) Multimodal Services;
- (5) Capital Investment Planning and Development; and
- (6) Multimodal Planning and Development.

iv. Chief Financial Officer--the Chief Financial Officer has principal responsibilities in the following areas:

- (1) Budget;
- (2) Accounting and Auditing;
- (3) Procurement; and
- (4) Information Technology;

v. Administration--the Assistant Commissioner for Administration has principal responsibilities in the following areas:

- (1) Human Resources;
- (2) Support Services; and
- (3) Civil Rights and Affirmative Action/EEO Officer;

vi. Government and Community Relations--the Assistant Commissioner of Government and Community Relations has principal responsibilities in the following areas:

- (1) Communications;
- (2) Community and Constituent Relations; and
- (3) Legislative, Administrative, and Regulatory Actions.

vii. Legal Services; and

viii. Transportation Systems Management--the Assistant Commissioner of Transportation Systems Management has principal responsibilities in the following areas:

(1) Traffic Operations; and

(2) Mobility and Systems Engineering;

3. The Chief of Staff reports to the Commissioner, with principal responsibilities for developing, recommending, and implementing, with Commissioner approval, solutions to problems related to both internal operations and policies; and serving as liaison with other agencies and the Governor's office.

4. The Director of Smart Growth reports to the Commissioner with principal responsibilities to provide for the expedition of certain permits in smart growth areas and for the creation of expedited permit mechanisms, such as permits-by-rule; and

5. The Inspector General reports to the Commissioner and provides the Commissioner and the Department's senior leadership with independent and responsive assistance relating to oversight of special investigative services, annually assesses internal controls over operations, and has principal responsibilities in the following areas:

i. Ethics Unit;

ii. Internal Audit;

iii. Internal Investigation; and

iv. Records Management (including the OPRA unit).

16:1A-1.3 Department logo

(a) The official logo of the Department of Transportation is proprietary to the Department and may not be used by persons, firms, partnerships, corporations, cooperatives, organizations, or other entities for any purpose without the written permission of the Commissioner.

(b) The logo is described as follows: A blue right-facing plain arrowhead which appears within a circular white field. Surrounding the white circle is a circular red ring which contains letters. The upper half of the ring shows the words "Department of Transportation." The lower half of the ring shows the words "The State of New Jersey." The letters are shown in white. It appears below in black and white.



16:1A-1.4 (Reserved)

16:1A-1.5 (Reserved)

16:1A-1.6 (Reserved)

16:1A-1.7 (Reserved)

16:1A-1.8 (Reserved)

16:1A-1.9 (Reserved)

SUBCHAPTER 2. DEFINITIONS

16:1A-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Custodian of records" or "custodian" means the Supervisor, Records Management or other officer officially designated by formal action of the Department.

"Department" means the New Jersey Department of Transportation.

"Government record" or "record" means any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of the Department's official business by any officer or employee or that has been received in the course of the Department's official business. The term shall not include inter-agency or intra-agency advisory, consultative or deliberative material or any other information deemed to be confidential or privileged pursuant to N.J.S.A. 47:1A-1 et seq.

"Traffic camera video record" or "video record" means the image or images of traffic information captured and recorded by a video camera on the Department's closed circuit television video system operated and maintained by the Department to manage and monitor traffic operations and to identify traffic operational issues.

SUBCHAPTER 3. RULEMAKING

16:1A-3.1 Procedure for filing a rulemaking petition

(a) Any interested person may petition the Department of Transportation for the promulgation, amendment, or repeal of any rule of the Department of Transportation. The petition shall be in writing, signed by the petitioner and must state clearly and concisely:

1. The full name and address of the petitioner;
2. The substance or nature of the rulemaking which is requested;
3. The reasons for the request;
4. The petitioner's interest in the request, including any economic interests;
5. The statutory authority under which the Department of Transportation may take the requested action; and
6. Existing Federal and State statutes and rules which the petitioner believes may be pertinent to the request.

(b) The petition may be submitted by:

1. Regular mail at:

New Jersey Department of Transportation
Administrative Practice Officer
PO Box 600
Trenton, NJ 08625-0600;

2. Hand delivery at:

New Jersey Department of Transportation
1035 Parkway Avenue
Ewing, NJ 08625;

3. Fax number: (609)530-4638; or

4. Email: njdotRules@dot.state.nj.us.

(c) Upon acceptance of a petition which satisfies the requirements of (a) above, the Department shall file a notice of receipt of the petition within 15 days with the Office of Administrative Law for publication in the New Jersey Register.

(d) Within 60 days following receipt of a petition, the Department shall either:

1. Deny the petition, in which case the Department shall provide a written statement of its reasons to the petitioner, and include such reasons in its notice of action;

2. Grant the petition and initiate a rulemaking proceeding within 90 days of the granting of the petition; or

3. Refer the matter for further deliberations, the nature of which shall be specified to the petitioner and in the notice of action and which shall conclude within 90 days of such referral. Upon conclusion of such further deliberations, the Department shall either deny the petition or grant the petition and initiate a rulemaking proceeding within 90 days. The Department shall mail the results of these further deliberations to the petitioner and submit the results to the Office of Administrative Law for publication in the New Jersey Register.

(e) Within 60 days of receiving the petition, the Department shall mail to the petitioner, and file with the Office of Administrative Law for publication in the New Jersey Register, a notice of action on the petition, which shall include:

1. The name of the petitioner;

2. The New Jersey Register citation for the notice of petition;

3. The signature of the Commissioner, or his or her designee, signifying that the petition was duly considered pursuant to law;

4. The nature or substance of the Department's action upon the petition; and

5. A brief statement of reasons for the Department's action.

(f) The procedures outlined in this section to petition the Department for the promulgation, amendment or repeal of a rule shall apply to all Department rules, except in those cases where a special or alternative petition procedure is specifically designated.

16:1A-3.2 Extension of the public comment period

(a) The Department, in accordance with the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Office of Administrative Law Rules for Agency Rulemaking, N.J.A.C. 1:30, may extend the time for submission of public comments on a proposed rulemaking at its discretion without the need for a specific request or the demonstration of sufficient public interest.

(b) The Department, in accordance with the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Office of Administrative Law Rules for Agency Rulemaking, N.J.A.C. 1:30, shall extend the time for submission of public comments for an additional 30-day period, if, within 30 days of the publication of a notice of proposal, sufficient public interest is demonstrated in an extension of time to submit comments.

(c) Sufficient public interest is demonstrated in an extension of the comment period when 10 or more individuals have expressed the need for the extension of the comment period.

16:1A-3.3 Conducting a public hearing

(a) The Department, in accordance with the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Office of Administrative Law Rules for Agency Rulemaking, N.J.A.C. 1:30, may conduct a public hearing on a proposed rulemaking at its discretion without the need for a specific request or the demonstration of sufficient public interest.

(b) The Department, in accordance with New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Office of Administrative Law Rules for Agency Rulemaking, N.J.A.C. 1:30, shall conduct a public hearing on a proposed rulemaking at the request of a Legislative Committee, a State agency, or a county, local, or municipal governmental entity, if the request is made to the Department within 30 days following publication of the proposed rulemaking, or if sufficient public interest is demonstrated.

(c) Sufficient public interest is demonstrated with regard to the conducting of a public hearing when 50 or more individuals have expressed either the need for a public hearing on the rule proposal or disagreement with one or more substantive provisions of the rule proposal.

(d) The Department shall not consider, in the calculation of the number of comments received under (c) above, those comments that relate to specific recommended changes in the rule that the Department has agreed to make or does not have the legal authority to make.

16:1A-3.4 Notice of rulemaking proposals

(a) When the Department makes a rulemaking proposal in the New Jersey Register, the Department shall distribute a notice of the rulemaking proposal to the news media maintaining a press office in the State House Complex.

(b) When the Department makes a rulemaking proposal in the New Jersey Register, the notice will also be available on the Department's website at www.state.nj.us/transportation/about/rules/.

SUBCHAPTER 4. OBTAINING GOVERNMENT RECORDS

16:1A-4.1 General information

General information may be obtained from the Department by telephone or by request in writing to:

New Jersey Department of Transportation
P.O. Box 600
Trenton, NJ 08625-0600
(609) 530-2000

or on the Department's website at:

www.state.nj.us/transportation.

16:1A-4.2 Record requests

(a) Department records shall be accessible for on-site inspection by private citizens during the regular business hours of the custodian of records or the particular office having custody of the record. Every person shall also have the right to copy such records by hand or to purchase copies. The right to copy or duplicate a record or document shall not apply to records, documents or software that may be subject to copyrights, licensing or other such restrictions. The right of inspection or copying of Department records may be denied by the custodian pursuant to N.J.S.A. 47:1A-1 et seq., and this chapter. If the request is denied, the requestor will be notified of the reasons for such denial.

(b) All requests for on-site inspection or copying of the Department's records, except as set forth in (c) and (d) below, shall be made in writing on the State of New Jersey's Government Records Request form and hand-delivered, mailed, or transmitted electronically to the custodian of records. The records request form may be obtained by written request to:

New Jersey Department of Transportation
Custodian of Records
C/O Office of Inspector General
1035 Parkway Avenue
PO Box 600
Trenton, NJ 08625-0600
Phone: 609-530-8045
Fax: 609-530-6694

or online at <http://www.state.nj.us/transportation/refdata/opra/> or by e-mail to: njdot.opra@dot.state.nj.us.

The request form shall include, but is not limited to, the following:

1. The name, address and telephone number of the requestor;
2. A description of the government record(s) requested;

3. Request for on-site inspection;
4. If copies are requested, the medium preferred;
5. Mode of delivery; and
6. Maximum cost for copies, as authorized by the requestor.

(c) Requests for traffic control signal operation and maintenance records shall be made in accordance with N.J.A.C. 16:1A-4.5(a).

(d) Requests for traffic camera video records shall be made in accordance with N.J.A.C. 16:1A-4.6(a).

16:1A-4.3 Exempt records

(a) The following Department records shall be exempt from public access:

1. Future construction projects in terms of specific amounts or locations;
2. Any information provided to the Department by construction or professional services contractors for the purposes of becoming prequalified or classified;
3. Research and tests required in the development of highway materials, design and construction;
4. Consultants' draft and final reports, Department draft and final preliminary planning and engineering studies and assessment prior to disclosure at public hearings;
5. Preliminary aircraft accident investigative reports;
6. Reports and records of aeronautical surveillance or investigation;
7. Personnel and pension records, with the exception of the following information:
 - i. An individual's name, title, position, salary, payroll record, length of service in the instrumentality of government and in the government, date of separation from government service and the reason for the separation and the amount and type of pension he or she is receiving; and
 - ii. Data contained in information, which disclose conformity with specific experimental, educational or medical qualifications required for government employment or for receipt of a public pension, but in no event shall detailed medical or psychological information be released;
8. Police and driver reports of accidents on file with the Bureau of Accident Records;
9. All records that are part of any work papers, memoranda or reports that are made, maintained or kept by the Office of the Inspector General in the Department of Transportation;
10. Bridge Survey Reports;
11. Research documents pertaining to ongoing studies for the operational areas of the Department prior to disclosure to the public;
12. Audit reports performed by Department personnel or outside agency personnel for the Department;

13. Bridge and structural records and plans relating to the Interstate Highway System, including all State roads;

14. Work papers, memoranda reports, plans, or other records that are made, maintained, or kept as part of any investigation by the Department into a matter involving any potential violation of civil or criminal law;

15. Work papers, memoranda or reports that are determined by the Department to be a draft or work in progress;

16. For the preservation of the "attorney-client privilege," all records that are part of any case file maintained by a Deputy Attorney General acting for the Department;

17. Appraisal review analyses; and

18. Estimates, appraisals and costs of acquiring right-of-way prior to the completion of a project, unless the requestor is a party to a Departmental eminent domain proceeding, in which case, disclosure of the records is subject to the provisions of the Eminent Domain Act, N.J.S.A. 20:3-1 et seq., and New Jersey Court Rules, R. 4:73-11.

16:1A-4.4 Copying fees

(a) Copies of records will be made available upon full payment of the copying fees, by check or money order made payable to "New Jersey Department of Transportation." Ordinary copying fees shall be in accordance with N.J.S.A. 47:1A-5. The Department may require a 50 percent deposit for special service charges. The copying costs for the following non-exclusive list of records have been determined by the Department to be extraordinary, is provided in this section for ease of reference, and their copying fees are as follows:

1. Copies of drawings, maps, and plan sheets shall be \$ 2.00 per page or \$ 25.00 per compact disk. Copying costs for color copies of drawings, maps, and plan sheets will be based on actual costs;

2. Copying fees for traffic control signal operation and maintenance records shall be in accordance with N.J.A.C. 16:1A-4.5(c); and

3. Copying fees for traffic camera video records shall be in accordance with N.J.A.C. 16:1A-4.6(c).

(b) If a person wishes to copy more than 100 pages of Department records, the custodian of records may permit the use of the person's own photographic process providing:

1. The photographic process is approved by the custodian;

2. There is no risk of damage, mutilation or loss of the records;

3. The copying of such records would not be incompatible with the economic and efficient operation of the office; and

4. Upon full payment of the fee that will be established by the custodian after consideration of the equipment and time involved, at not less than \$ 10.00 or more than \$ 50.00 per day.

(c) If it is not practicable for the Department to copy any document, the document will be copied commercially and the requestor shall be charged a fee equal to the Department's costs for the commercial copying.

(d) Government agencies are exempt from the copying fees provided that the request is submitted on official letterhead stationery and signed by the agency head.

16:1A-4.5 Traffic control signal records

(a) All requests for current traffic control signal records, other than date-specific signal records, shall be submitted in writing and mailed to:

Bureau of Traffic Engineering
New Jersey Department of Transportation
PO Box 600
Trenton, NJ 08625-0600

(b) All requests for date-specific traffic control signal records shall be submitted in writing and mailed to:

Bureau of Roadway Maintenance Engineering and Operations
New Jersey Department of Transportation
PO Box 607
Trenton, NJ 08625-0607

(c) Requests shall be accompanied by the following fees:

1. Current timing - \$ 10.00;
2. Current plan - \$ 15.00; and
3. Certification of date-specific traffic control signal records - \$ 100.00.

16:1A-4.6 Traffic camera video records

(a) All requests for traffic camera video records shall be made in writing on the Department's Video Log Request Form, which may be obtained at www.nj.gov/transportation/business/videolog. Completed forms shall be sent to:

Video Request Coordinator
Transportation Systems Management
New Jersey Department of Transportation
P.O. Box 600
Trenton, NJ 08625

or submitted by facsimile to:

Fax: 609-530-2607

(b) All requests for traffic camera video records must be made to and received by the Department within seven calendar days of the date of the requested traffic camera video record.

(c) The copying fee for the first three hours or less of the requested traffic camera video record is \$ 100.00 per camera. The copying fee for each additional three hours of the requested video record is \$ 50.00 per camera. Fees shall be paid by check or money order made payable to the "New Jersey Department of Transportation." Within 30 days of notification by the Department that the video record is available, the requestor must submit the copying fee. After 30 days the video record will not be retained.

APPENDIX [RESERVED]